



SPECIAL CALLED MEETING

ZONING & PLATTING COMMISSION

Monday, October 30, 2017

The Zoning & Platting Commission convened in a special called meeting on October 30, 2017@ 301 W. 2nd Street, Austin, TX 78701

Chair Kiolbassa called the Commission Meeting to order at 6:01 p.m.

Commission Members in Attendance:

Ana Aguirre – Secretary
Dustin Breithaupt
Ann Denkler
Jim Duncan – Vice-Chair (*left early*)
Bruce Evans
Yvette Flores
Betsy Greenberg – Parliamentarian
Jolene Kiolbassa – Chair
David King

Absent:

Sunil Lavani
Stephanie Trinh

EXECUTIVE SESSION (No public discussion)

The Zoning & Platting Commission will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The commission may not conduct a closed meeting without the approval of the city attorney.

Private Consultation with Attorney – Section 551.071

A. CITIZEN COMMUNICATION

The first four (4) speakers signed up prior to the meeting being called to order will each be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

B. NEW BUSINESS

Discussion and possible action regarding CodeNEXT (Draft #2), the proposed land development regulations for the City.

Motion by Chair Kiolbassa to utilize the Kiolbassa resolution as basis for recommendation was approved by unanimous consent.

9-0 vote. Commissioners Lavani and Trinh absent

Amendment by Commissioner Greenberg to include paragraph:

The Zoning and Platting Commission recommends that the sidewalk requirements not be relegated to the Transportation Criteria Manual. Current sidewalk requirements included in Subchapter E of the current land development code should be retained and included in CodeNext.

Amendment by Chair Kiolbassa to delete:

(Of the four most recent 100+ employee expansions and relocations logged by the Chamber of Commerce, three were north of 183 and Hwy 360.)

Amendment by Chair Kiolbassa to include paragraph:

CodeNext guarantees that the outer core will continue to develop with a suburban model by zoning neighborhoods in these areas for only one unit per lot. The Zoning and Platting Commission recommends that CodeNext encourage housing density, diverse housing options, and more ambitious housing target for outer core neighborhoods particularly those near the Domain, Lakeline Station and job centers.

and delete “Greenfield”

Amendment by Chair Kiobassa to include, “*and ensure complete communities throughout Austin.*”

Motion to approve the proposed amendments was made by Commissioner Breithaupt, seconded by Commissioner King was approved on a 9-0 vote. Commissioners Lavani and Trinh absent.

Amendment by Commissioner Greenberg to include paragraph:

The Zoning and Platting Commission recommends these revisions to CodeNEXT for Organization and Complexity:

- *Ensure progression and cumulative nature of zoning categories*
- *Reduce number of zoning categories to reduce complexity (e.g. Cincinnati)*

- *Reduce overall text length to average of other similarly-sized city*
- *Re-organize structure to match that of other cities (e.g. Portland, Chicago, Cincinnati)*
- *Increase use of tables, illustrations and flowcharts whenever feasible to improve readability*
- *Chapters: Incorporate transportation, Separate environmental, separate technical; administrative procedures and definitions at the back; group together all procedures for appeals*
- *Professional editing to address inconsistencies, missing/unclear definitions*
- *Errors and Inconsistencies include:*
 - *Text references to 23-9E-5050 regarding sidewalk requirements, but the correct section is 23-9E-2020 that has no requirements.*
 - *Text references over and over to building standards in 23-4E-8030 a section that has no standards.*
 - *Text reference to 23-4D-2220 on Cottage Courts a section that doesn't exist. The correct reference is to 23-4E-8050.*
 - *Error on 1150 sq. ft. for ADUs*
 - *Zone R1B says 45' width on 4D-2 pg 23 and 50' width on 4D-2 pg 24 0.*
 - *Zone R3C says 0.4 FAR on duplex but 23-4E-6160 allows duplexes up to 0.57 FAR in R3C.*
 - *R1-R3 say AHBP is not applicable but 23-3E-5010 gives affordable housing incentives in those zones.*
 - *MS zones Table 23-4D-5030A seems to prohibit restaurants < 2500 sq. ft. as this is not listed as an allowed use.*
 - *Telecommunication uses are permitted by right in all zones except Lake Austin (LA) in 23-4D-2030 but restricted by 23-4E-6370 from House Form Zones.*

Poorly defined or missing uses:

- *Group Residential (not defined)*
- *Food sales "on and off site" (not defined)*
- *Medical services not specific enough – does it include hospital services limited type uses.*
- *Outdoor Formal and Outdoor Informal uses (not defined)*

The Zoning and Platting Commission recommends that a professional editor be hired to correct all typos, incorrect references, inconsistencies, and missing or unclear definitions.

Amendment by Commissioner Denkler to include paragraph:

Also delete planning jurisdiction as a definition and add a definition for Extra Territorial Jurisdiction (ETJ). If use jargon, then include a definition.

Amendments by Chair Kiolbassa and Commissioners Greenberg and Aguirre to include:

The Zoning and Platting Commission would like answers to these questions: In regards to the Flood Mitigation Task Force (FMTF) Report: Which regulatory recommendations identified in the report are addressed in CodeNEXT? What feedback did the consultants provide for each regulatory recommendation in the FMTF Report? How is each recommendation addressed in CodeNEXT? If any recommendation was not addressed in CodeNEXT, what is the rationale?

As part of the CodeNEXT review process, information specific to flooding has been requested but not yet provided. The information previously requested includes, but is not limited, to the following: Data on all the locations of localized flooding throughout the city; a list of all buyout locations; and identified buyout locations including money secured for buyouts, buyout status pending and properties identified but no money available to proceed with the buyouts.

The Zoning and Planning Commission recommends that the City of Austin implement a regional storm water management system for the remaining watersheds that don't have a Regional Storm Management Program (RSMP). We would also like the RSMP to be the subject of a third party evaluation per the flood mitigation task force recommendation.

The Zoning and Platting Commission understands that numerous individuals and groups have raised flooding concerns. How have those individual concerns been addressed? How is the comment process demonstrating the community's concerns are being heard and addressed? It must be noted that the Environmental Commission is not making a recommendation on the second draft due to not having enough information. What additional information is needed? How quickly can that information be provided?

Amendment by Commissioner Aguirre to include the following:

The ZAP recommends that properly credentialed engineers review subjects that they are licensed in, including site plans for three to nine residential units.

Motion by Commissioner Aguirre, seconded by Commissioner Greenberg to approve the proposed amendments was approved on a 9-0 vote. Commissioners Lavani and Trinh absent.

Amendment by Commissioner Greenberg to include paragraphs:

It is clear from other growing cities and our own that a bigger, denser city increases the rate of innovation, start-ups, and productivity, but it is also accompanied by increased gentrification, income inequality and segregation, and housing costs. The only remedy to the downside of growth is to require developers to provide affordable housing in exchange for the additional height and density that they want.

CodeNext hurts Austin's ability to provide affordable housing in two ways. The first is by reducing the percentage of affordable units that must be provided in the Affordable Housing Bonus Program (AHBP) and the second is by providing increased by-right entitlements without imposing affordability requirements in return.

CodeNext 23-E-1040(B)(2) states that the number of affordable units will be calculated based on a percentage of only the bonus units requested resulting in far fewer affordable units than those required by the city's Vertical Mixed Use (VMU) program. The VMU program requires the percentage of income restricted affordable units to be based on the total number of units in the project and that the Median Family Income (MFI) requirement is 60% to 80%. This VMU program was studied for feasibility and has provided income restricted units scattered around the city. The Zoning and Platting commission recommends that current VMU affordability standards be used in CodeNext instead of the proposed AHBP standards.

CodeNext provides increased by-right entitlements with no public benefit. For example, the CodeNext draft 2 map typically zones CS-V properties MS3 with a height limit of 75'. This 15'

height increase will likely reduce developers' incentive to participate in the AHBP. Given the limited options to create affordable housing, it makes no sense to give away development entitlements without affordability requirements. The Zoning and Platting Commission recommends that CodeNext ties any increases in entitlements (increased height, FAR, or density) to requirements to provide affordable housing. To provide the maximum benefits, AHBP should be made available in as many zones as possible. For example, the AHBP should be available in all Main Street zones. Commercial properties with no housing should be allowed to participate in the AHBP by paying fee-in-lieu. To ensure compatibility, height and FAR should not increase in or near residential house form zones. Bonuses in these locations should be limited to increases in units.

CodeNext eliminates requirements for affordable housing in the Planned Unit Development (PUD) Zone (23-4D-8120). The Zoning and Platting Commission recommends that all PUDs that receive increased entitlements or code modifications be required to provide on-site affordable housing (or fee-in-lieu to the AHBP for projects that don't provide housing)

Amendment by Commissioner King to delete and replace language with the following:

One remedy to the downside of growth...

Amendments by Chair Kiolbassa, Vice-Chair Duncan and Commissioners Denkler and King to include the following paragraphs:

The Zoning and Platting Commission recommends that CodeNEXT ties any increases in entitlements (increased height, FAR, or density) to requirements to provide affordable housing. The Zoning and Platting Commission recommends that the city require a certain percent of all units to be multi-bedroom, to give low-income families with children housing priority, achieve deeper affordability by lowering MFI thresholds and adjust fees to be more in line with actual housing costs.

To provide the maximum benefits, AHBP should be made available in as many zones as possible. For example, the AHBP should be available in all Main Street zones. Commercial properties with no housing should be allowed to participate in the AHBP by paying fee-in-lieu. To ensure compatibility, height and FAR should not increase in or near residential house form zones. Bonuses in these locations should be limited to increases in units.

CodeNEXT eliminates requirements for affordable housing in the Planned Unit Development (PUD) Zone (23-4D-8120). The Zoning and Platting Commission recommends that all PUDs that receive increased entitlements or code modifications be required to provide on-site affordable housing (or fee-in-lieu to the AHBP for projects that don't provide housing).

Motion by Vice-Chair Duncan, seconded by Commissioner King to approve the amendments was approved on an 9-0 vote. Commissioners Lavani and Trinh absent.

Amendment by Commissioner Greenberg to include paragraph :

The accessory dwelling units (ADUs) in CodeNEXT (and the current code since 2015) allow ADUs of 1,100 sq. ft. This size exceeds every major city in the US. In fact, 1,100 sq. ft. is the size of many houses in older neighborhoods. These houses permitted as large ADUs have recently been sold

separately from the main house using a condo regime making clear that the large ADU is not an accessory to the main house. The Zoning and Platting Commission recommends that Austin reduce the allowed size of ADUs consistent with other cities and find other ways to encourage the use of this infill tool. ADUs should be allowed by right in all house form zones and CodeNEXT should allow detached, attached and garage ADUs, fast-track and eliminate permit fees for smaller ADUs (<500 sq. ft.) and income-restriction units, and vary permitted floor area by lot size (600, 850, and 1,100 sq. ft.).

Motion by Breithaupt, seconded by Vice-Chair Duncan to approve the amendments was approved on a 9-0 vote. Commissioners Lavani and Trinh absent.

Amendment by Commissioner Greenberg to include paragraph:

CodeNEXT proposes to drastically limit compatibility protections in the house form zones allowing an eight-story building to be just 100' from a single-family home. This short compatibility buffer is unprecedented in major US cities. Adequate compatibility standards are necessary to compensate for Austin's failure to follow sound transitional planning principles. The Zoning and Platting Commission recommends that house form zones (and not use) trigger compatibility. We recommend that current compatibility rules be reduced by about one-third, allowing 40' buildings 100 feet away, 60' high-rises 200 feet away; and 80' story high-rises 300 feet away from house form zones. Step back provisions should be included for RM1B, and MUI (A-D). Step-backs should be based on the distance from triggering property line and not on the widths of roadways and alleys. The Zoning and Platting Commission recommends that in addition to height, massing and uses be included. CUPs must be required for uses that are inappropriate in the vicinity of house form zones (including those involving alcohol and extended hours of operation). Compatibility requirements should also ensure that out of scale massing (such as MUIC and MUID zones) be prohibited within 300' of residential house form zones. In addition, other compatibility provisions such as driveway and parking placement, dumpster placement, mechanical equipment placement, etc. should be retained from the current code. ZAP recommends that side yard setbacks be evaluated In an effort to provide uniformity.

Motion by Commissioner Greenberg, seconded by Vice-Chair Duncan to approve the amendment was approved on an 9-0 vote. Commissioners Lavani and Trinh absent.

Amendments by Commissioners Denkler and Greenberg to include the following language:

CodeNEXT has increased impediments to public participation, diminished transparency given enhanced administrative authority, and suggested the creation of bodies with no clear policy reason for doing so. The Zoning and Platting Commission is concerned about the following issues:

- Less notification;*
- Shorter time periods and impediments to appeals;*
- Changes to determination of standing to appeal;*
- Minor Use Adjustments;*
- Minor Use Permits (MUP); and the*
- Broadening of special exemptions.*

Motion by Greenberg, seconded by Commissioner Breithaupt to approve the amendment was approved on a 7-1 vote. Vice-Chair Duncan left early; Commissioners Lavani and Trinh absent.

Amendment by Commissioner Greenberg to include the following language:

Texas Local Government Code § 211.004 requires that zoning regulations be adopted in accordance with the adopted comprehensive plan. Austin City Charter Article X, § 6 also requires that all land development regulations, including zoning and map, shall be consistent with the comprehensive plan, element or portion thereof as adopted.

The CodeNEXT draft 2 map does not follow the Growth Concept Map's directive to focus development along the corridors and activity centers. Imagine Austin directs that where a small area plan exists, recommendations should be consistent with text of the plan and its Future Land Use Map. The CodeNEXT draft 2 map disregards both the text and the map of Austin's comprehensive plan.

CodeNEXT is meant to be an implementation process, not a new planning exercise. The Zoning and Platting Commission recommends that future mapping be consistent with directives and maps in Imagine Austin, including the small area plans.

Motion by Commissioner Greenberg, seconded by Commissioner Breithaupt to approve the amendment was approved on an 8-0 vote. Vice-Chair Duncan left early; Commissioners Lavani and Trinh absent.

Amendments by Commissioners, Duncan, King, Aguirre and Breithaupt:

Austin has a pattern of permitting more intense zoning categories in east Austin than elsewhere. Austin is one of the most economically segregated metro area in the country, with rich and poor residents increasingly separating out into low- and high-income neighborhoods, and a smaller and smaller share of residents living in mixed-income communities.

CodeNEXT proposes 17 different house form zones allowing for different entitlements. This provides a clear path to worsen income segregation. The CodeNEXT draft 2 map is almost entirely R1 on the west side of Austin while only the central and east Austin neighborhoods are zoned R3. This inequitable treatment will further exacerbate income segregation. The Zoning and Platting Commission recommends that the number of house form zones be drastically reduced, that all areas of the city be mapped equitably, and that CodeNEXT encourage mixed-income communities by using one set of zoning standards in the entire city. We also recommend that subdivision rules be changed to promote a mix of lot sizes.

Neighborhoods identified in the report from the Mayor's Task Force on Institutional Racism should not be upzoned and compatibility protections should be restored for properties with current single-family zoning. The Save Our Springs (SOS) ordinance passed in 1992 in the city to protect environmentally sensitive parts of Austin from overdevelopment. An unintended consequence is that the ordinance encouraged overdevelopment into east Austin. The Zoning served and Platting commission recommends that CodeNext provide enhanced environmental protections in central and east Austin to treat different areas of the city equitably and to avoid the negative consequences of impervious cover and overdevelopment in all areas of the city.

The primary purpose of CodeNEXT is to implement the Imagine Austin Comprehensive Plan (IACP). Given that the IACP is currently undergoing a five-year major update, we recommend mapping after Imagine Austin completes this update.

Communities of color have been largely left out of the IACP and CodeNEXT processes and as a result, neither the IACP nor CodeNEXT equitably represent their voices, values, interests and needs.

The City's Equity Office should review the IACP and CodeNEXT and provide feedback and recommendations to the Planning Commission, the Zoning and Platting Commission, staff and Council.

The Zoning and Platting Commission recommends that references to "high-" and "low-opportunity" areas be removed from CodeNEXT because every area should be a high opportunity area.

MAPPING RECOMMENDATION

The Zoning and Platting Commission recommends that the third CodeNext draft be released without a city-wide map. Consistent with the Opticos contract, only a sample of areas (including an activity corridor, a commercial area, an older neighborhood, a newer neighborhood, and UNO), an area around a school, should be tested, so that we can ensure that the zones work as expected.

The Zoning and Platting Commission recommends that when the entire city is mapped, upfront increases in entitlements (FAR, height, or number of units) should be avoided. Upfront upzoning gives away the only leverage we have for creating income restricted affordable housing, can jeopardize the fabric of Austin's neighborhoods, and is near impossible to remedy when mistakes are made.

Motion by Commissioner King, seconded by Commissioner Breithaupt to approve the amendment was approved on an 8-0 vote. Vice-Chair Duncan left early; Commissioners Lavani and Trinh absent.

Amendments by Commissioners King and Breithaupt to include the following executive summary:

The Zoning and Platting Commission has evaluated the second CodeNEXT draft to the best of our ability given the very limited time we were given. Below is a summary of our recommendations with additional detail of each point attached.

Revisions to Adoption Process

- *Extend timeline to give citizens, commissions, and council more time to review, revise and digest and provide meaningful feedback on the full content of CodeNEXT*
- *CodeNEXT mapping should be completed only after the 5 year Imagine Austin plan has been updated with input from all stakeholders, including an intentional focus on seeking input from communities of color*
- *Do not release a city-wide map for Draft 3 of CodeNEXT. Instead, targeted areas of the city should be released to test desired vs. real-world impact*

Revisions to Elements of the Code

- *Align CodeNEXT to Imagine Austin whenever possible, especially mapping and small area plans*
- *Issues all affordable housing programs work consistently and are available in all zoning categories; PUDs should participate too; tie entitlements to inclusion of affordable housing; require more 2/3 bedroom units for families; lower MFI thresholds;*
- *Increase pedestrian-friendly policies*
- *Incorporate recommendations regarding flooding*
- *ADUs - allow in all housing form zones; fast-track and eliminate fees for small (>500 sq. ft.) and income restricted units; Allow units up to 1,100 square feet based on lot size*
- *Address compatibility standards, setbacks and step-back provisions*
- *Scrutinize and revise elements related to appeals, notifications and increased administrative authority to broaden special exemptions as a means of ensuring the public can provide input throughout the process*
- *Remove references to “high“ and “low opportunity zones” in CodeNEXT -- every neighborhood in our city should be a high opportunity zone*

Revisions to Code Organization/Complexity

- *Ensure progression and cumulative nature of zoning categories*
- *Reduce number of zoning categories to reduce complexity (e.g. Cincinnati)*
- *Reduce overall text length to average of other similarly-sized city*
- *Re-organize structure to match that of other cities (e.g. Portland, Chicago, Cincinnati)*
- *Increase use of tables, illustrations and flowcharts whenever feasible to improve readability*
- *Chapters: Incorporate transportation, separate environmental, separate technical; administrative procedures and definitions at the back; group together all procedures for appeals*
- *Professional editing to address inconsistencies, missing/unclear definitions*

Amendment by Commissioner Greenberg to include:

The Zoning and Platting Commission has evaluated the second CodeNEXT draft to the best of our ability given the very limited time we were given. Below is a summary of our recommendations with additional detail of each point attached.

Motion by Commissioner Greenberg, seconded by Chair Kiolbassa to approve the amendment was approved on an 8-0 vote. Vice-Chair Duncan left early; Commissioners Lavani and Trinh absent.

After debate and amendments, the motion by Commissioner Denkler, seconded by Commissioner King to adopt the Zoning and Platting Commission recommendation concerning CodeNEXT Draft # 2 was approved on an affirmative vote of 8-0; Vice-Chair Duncan left early; Commissioners Lavani and Trinh absent.

[Zoning and Platting Commission Recommendation regarding CodeNEXT Draft #2](#)

ADJOURNMENT

Chair Kiolbassa adjourned the meeting without objection on Monday, October 30, 2017 at 11:52 p.m.

The City of Austin is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or alternative formats, please give notice at least 4 days before the meeting date. Please call Jerry Rusthoven at the Planning and Zoning Department, at 512-974-3207, for additional information; TTY users route through Relay Texas at 711.